

UNITED STATE DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

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|----------------------------|---|-----------------|
| RONALD STEVEN MYERS and |) | |
| GEORGE MYERS, |) | |
| |) | |
| Plaintiffs, |) | |
| |) | No. 3:11-CV-380 |
| |) | (VARLAN/GUYTON) |
| V. |) | |
| |) | |
| THE PEOPLES BANK OF EWING, |) | |
| |) | |
| Defendant. |) | |

MEMORANDUM AND ORDER

This case is before the undersigned pursuant to 28 U.S.C. § 636, the Rules of this Court, and the order of the District Judge [Doc. 26] referring Plaintiffs' Motion to Appoint Guardian Ad Litem for Plaintiff George Myers [Doc. 22], to the undersigned for disposition or report and recommendation as may be appropriate. The Court held a hearing on April 23, 2012, to address the Motion to Appoint Guardian Ad Litem. Attorney Russell Egli was present representing Plaintiffs Ronald Myers and George Myers, who were also present. Attorney John Winemiller was present representing the Defendant.

At the hearing, Defendant argued, as an initial matter, that the Plaintiffs' Motion to Appoint Guardian Ad Litem was not a proper petition for appointment pursuant to applicable Tennessee law. Specifically, Defendant maintained that the Plaintiffs' motion did not comply with Tennessee Code Annotated § 34-3-104. The Plaintiffs agreed to withdraw the instant motion and to file a petition for appointment that complies with Tennessee Code Annotated § 34-3-104. The parties agreed that the issue before the Court was not in the correct procedural posture and was not ripe for adjudication.

Accordingly, and based upon the parties' agreement, the Court finds that the Motion to Appoint Guardian Ad Litem [Doc. 22] is moot, and it is **DENIED AS MOOT**. The Plaintiffs shall have up to and including **May 25, 2012**, to file a petition for appointment that complies with Title 34 of the Tennessee Code Annotated, specifically § 34-3-104, and any other applicable provision of the Tennessee Code Annotated or the Federal Rules of Civil Procedure. The Defendant shall have up to and including **June 29, 2012**, in which to respond to the Plaintiffs' petition. Both parties shall address the source of compensation for a guardian in their filings.

The parties shall appear before the undersigned at **9:30 a.m. on July 11, 2012**, for a hearing to address the Plaintiffs' petition.

IT IS SO ORDERED.

ENTER:

s/ H. Bruce Guyton
United States Magistrate Judge